

Draft Blasting Ordinance as revised Feb 4 2010 - Board of Selectmen version

Shall an ordinance entitled “Town of Harpswell Blasting Ordinance” be enacted?

**Town of Harpswell
Blasting Ordinance**

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Section 1. Purpose.

(1) The purpose of this ordinance is to minimize the effects of airblast, ground vibration, dust and noise associated with blasting which may be detrimental to individuals and the community in the enjoyment of life, property and the conduct of business through the establishment of standards and notice requirements of blasting operations.

(2) It is also the intent of this ordinance to prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region and to have a process which can be effectively and efficiently administered without causing undue financial and administrative hardship to blasting operators.

Section 2. Definitions

Airblast - An airborne shock wave resulting from detonation of explosives. "Airblast" may be caused by burden movement or the release of expanding gas into the air. "Airblast" may or may not be audible.

Applicant - The person, company or corporation responsible for managing and conducting blasting operations.

Blast/Blasting - Any activity entailing the use of explosives for the purpose of producing an explosion to demolish structures or to fragment rock for mining, quarrying, excavation and construction.

Blasting Operations - Drilling and site preparation solely for blasting and detonation.

Explosives - Any substance, chemical compound or mechanical mixture that is commonly used for the purpose of producing an explosion to fragment rock for mining, quarrying, excavation and construction. Initiating devices (detonators, detonating cords, etc.) are also included under this definition.

Ground Vibrations - A shaking of the ground caused by the blast wave emanating from a blast.

Section 3. Permit required.

A permit shall be obtained from the Code Enforcement Officer prior to any blasting with explosive devices or materials for development purposes within the boundaries of the Town of Harpswell.

- (1) Application forms for a permit may be obtained in the Code Enforcement Office.
- (2) All applications shall contain the following information:
 - (a) The name of the applicant.
 - (b) The name of the property owner.
 - (c) The general contractor.
 - (d) The location(s) of the proposed blasting activity.
 - (e) The total number of cubic yards of material estimated to be removed by blasting.
 - (f) An estimate of the number of blasts required to remove the specified amount of material.
 - (g) Hours and duration of proposed blasting activity.
 - (h) Proof that the entity applying for the Town's blasting permit has a permit to use explosives as issued by the State of Maine Fire Marshall's Office.
- (3) Upon receipt of a completed application, the Code Enforcement Officer shall review and act upon the application within ten (10) days. Failure to do so shall not be deemed an approval of the permit application.
- (4) Fees. All applications for blasting permits shall be accompanied by a fee as set from time to time by Board of Selectmen order.
- (5) Proof of insurance. The applicant and/or the blasting contractor shall present proof of liability insurance in a minimum amount of \$1,000,000 combined single limit per occurrence.
- (6) Effective period. Permits shall be effective for no more than 365 days from the date of approval. For blasting operations the scope of which exceeds one year, renewal of the permit shall be accomplished by reapplying in accordance with the procedure for a new permit, except that a public hearing may be held to review past compliance with the standards contained herein and any effects on existing uses and property owners in the vicinity of such blasting operations.

Section 4. Performance standards.

- (1) Hours of blasting. Blasting shall be limited to daylight hours, no earlier than 8:00 a.m. or later than 7:00 p.m., Monday through Friday inclusive. Detonation of misfires may occur outside of these times but must be reported to the Code Enforcement Officer in accordance with Section 5 of this Ordinance. Blasting shall be prohibited on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.
- (2) Ground vibration, airblast, and seismographic records shall comply with 38 M.R.S.A. § 490-Z (14) (B), (C), (I), (J), (K), (L) and (M), as may be amended from time to time.

Section 5. Notices required following issuance of a permit.

- (1) Any person intending to detonate explosives shall first notify the Code Enforcement Officer or his duly authorized representative that a blast is planned. Such notification shall be received at least 24 hours prior to the planned detonation and shall give the location where the blasting is to be done and the name and business address of the person responsible for the blasting operation and shall estimate the time (within two hours) and the amount of explosives to be used. The notification may be given orally over the telephone; however, the burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.
- (2) The person responsible for a blast shall notify the Code Enforcement Officer in the event of any misfires and the proposed corrective action within five (5) business days of the misfire.
- (3) At least ten (10) days prior to the intended date of the commencement of the blasting, the person responsible for the blast shall inform all property owners within 500 feet of the blasting location. Such notification stating the purpose, warning procedures, date and time of the blast shall be given by first class mail. The notification shall also include the following statement: "You may wish to preserve a sample of your well water quality and evidence of your well's flow rate before the blast in case you later decide to seek damages you feel are related to the blasting." Evidence that such notification was sent shall be provided to the Code Enforcement Officer upon request. Failure of a property owner to receive the required notice does not invalidate the blasting permit.
- (4) Prior to any blast, the person responsible for the blast shall prepare a notice of the date, time and place of the blast and provide a copy of the notice to the local cable channel seven (7) days in advance of the detonation

Section 6. Waivers

A. Applications for a waiver of the performance standards contained in Section 4 of this ordinance may be made to the Code Enforcement Officer. The Code Enforcement Officer may grant a waiver of one or more of the performance standards only if he finds that all of the following requirements are met by the applicant:

- (1) There exists an emergency situation or unique circumstances that make compliance with the performance standard(s) impractical;
- (2) The activity or operation will be of a temporary duration, i.e., a limited number of blasts at a specific site, and cannot be done in a manner that would comply with this ordinance;

- (3) The proposed blasting is consistent with recognized safety standards; and
- (4) No other reasonable feasible alternative is available to the applicants.

B. The Code Enforcement Officer shall prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community in writing at the time any waiver is granted. The Code Enforcement Officer shall keep a complete written record of all waivers granted or denied.

Section 7. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

Section 8. Enforcement and Penalties

It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Ordinance. Any person, including but not limited to a landowner, a landowner's agent, or contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. § 4452, as may be amended from time to time. For purposes of this Section, each day that a violation continues shall be considered a separate offense.

Section 9. Conflicts with other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

Section 10. Authority

This Ordinance is adopted under powers granted to the Town by 30-A M.R.S.A. § 3001, as may be amended from time to time.

Section 11. Amendments

Amendments may be made by a majority vote of the Town at any Harpswell Town Meeting and shall take effect upon enactment unless otherwise specified.

Section 12. Effective Date

This ordinance shall become effective upon its adoption.